

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE AMERICAN REALTY CAPITAL
PROPERTIES, INC. LITIGATION

Civil Action No.: 1:15-mc-00040

Oral Argument Requested

This Document Relates To:

ALL ACTIONS

**NOTICE OF MOTION TO DISMISS OF DEFENDANTS AMERICAN REALTY
CAPITAL PROPERTIES, INC. AND ARC PROPERTIES OPERATING
PARTNERSHIP, L.P.**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Motion to Dismiss of Defendants American Realty Capital Properties, Inc. and ARC Properties Operating Partnership, L.P. (collectively, the “Defendants”), and upon all prior proceedings had herein, Defendants, by their undersigned attorneys, will move before the Honorable Alvin K. Hellerstein, United States District Judge, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, Courtroom 14D, at a date and time to be determined by the Court, for an order (a) dismissing Count VIII with prejudice pursuant to Rules 8(a), 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, (b) dismissing any Count asserted against Defendants on the grounds urged by the other defendants in this action, to the extent applicable, and (c) granting Defendants such further and other relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that any opposing affidavits, answering memoranda of law, or other response shall be filed and served no later than March 15, 2016, and any reply memoranda of law and accompanying papers shall be filed and served no later than

April 5, 2016, as provided by the Court's order filed in the above-captioned action on February 3, 2016.

Dated: February 12, 2016
New York, New York

Respectfully submitted,

/s/ Scott A. Edelman

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